TESTIMONY OF
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TO THE
SENATE TRANSPORTATION AND HOUSING COMMITTEE AND
ASSEMBLY TRANSPORTATION COMMITTEE
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009
JOINT HEARING
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Good afternoon Chairman Lowenthal and Chairman Eng, and Members of the Committees. I would like to express my gratitude to the legislative leadership for elevating this topic and moving so quickly to help with its implementation.

The American Recovery and Reinvestment Act of 2009 (ARRA) is a job and economic stimulus bill intended to help states and the nation restart their economies and stimulate employment during the worst economic downturn in over 70 years. In drafting this bill, President Obama and Congress recognized that investment in transportation infrastructure is one of the best ways to create and sustain jobs, stimulate economic development, and leave a legacy to support the financial well-being of the generations to come. The intent and language of the bill responds to the urgency of our national situation by tasking state departments of transportation and other transportation stakeholders to quickly move forward with mobility projects that bring real value to the local, state, and national economy. I am here to tell you that the California Department of Transportation and its partners are more than up to meeting the challenges of that task.

Caltrans conservatively estimates that California could receive approximately $4.4 billion from this bill. Formula programs in the ARRA apportion $2.57 billion for highways, local streets and roads, freight and passenger rail, and port infrastructure projects, and $1.07 billion for transit projects. In addition, discretionary programs in the ARRA could yield another $300 million from a $1.5

billion program for significant surface transportation projects. The balance would come from the discretionary programs that set aside $8 billion for high speed and intercity rail, $1.3 billion for aviation, and $2.2 billion for AMTRAK, new starts, transit, ferries and other programs.

The ARRA allocates California's $2.57 billion in highway program funds by first setting aside 3 percent of the funding, or approximately $77 million for the purpose of funding transportation enhancement projects. Transportation enhancements include bicycle and pedestrian facilities and safety education, storm water mitigation, information kiosks, historical preservation, landscaping and beautification, and similar projects and programs that are complementary to highway and transit projects. Thirty percent of the $2.57 billion or $771 million is suballocated to urbanized areas and the rest of the state by population based formulas under the federal Surface Transportation Program (STP). The remaining 70 percent (which includes the Transportation Enhancement set aside) or $1.799 billion is allocated to the State.

The approximately $1.07 billion in California's formula transit funds are allocated directly to operators, and metropolitan planning organizations, with Caltrans having a pass through role for some of the rural funds. California will receive approximately $968 million under the urban transit formulas, commonly called the 5307 program, $66 million through the fixed guideway program, and $34 million for non urban transit.

I mentioned earlier that there is a $1.5 billion discretionary program in the ARRA. This program will provide grants ranging from $20 million to $300 million for highway, transit, freight and passenger rail, and port infrastructure projects. No state can receive more than 20 percent of the funds, which means that the maximum funding to California from this program is capped at $300 million, either through a single grant or multiple grants. The federal share of the project cost can be up to 100 percent. The Secretary of the United States Department of

Transportation (US DOT) has until May 18, 2009 to publish criteria for project selection, applications are due in November and projects must be selected by February next year. Projects must complete construction by February 17, 2012. I believe there is great opportunity for California in this program.

The ARRA sets aside $8 billion for capital assistance for high speed rail corridors and intercity rail. The Secretary of US DOT is directed to give priority to high speed rail projects. He is also directed to develop a strategic plan for using the funds by April 18, 2009 and issue guidance on grant applications by June 17, 2009. California is well positioned to take advantage of this program especially through projects proposed to build a high speed rail connection between the City of Anaheim and Las Vegas, the voter approved bond proposal to build a high speed rail connection between the San Francisco Bay Area and Southern California managed by the High Speed Rail Commission, and through the State's robust intercity rail programs.

There are several requirements that will have to be met under the ARRA.
The first of which is a maintenance of effort clause that requires the Governor to certify that the State will maintain effort with regard to use of its transportation funds between the date of enactment and September 30, 2010. I am confident that we will be able to meet this certification requirement by the March 19, 2009 deadline.

The ARRA also establishes very stringent transparency and accountability requirements for projects. It requires the State and other fund recipients to provide reports at 90 and 180 days, and 1 year, 2 years and 3 years after enactment. These reports must describe the amount of dollars and number of projects to which funds were obligated, awarded and expended. In addition, states will be required to report on jobs created and sustained by the contracts, including salary information and estimates of the number of indirect jobs created for suppliers. US DOT is required to post this, and other information about awards of grants, federal contracts, and to the extent possible, the ARRA related job opportunities on a national website, located at Recovery.gov. It is Caltrans' intent to link its stimulus website to the Recovery.gov so that bidders can have up to date information on California projects.

As I mentioned earlier, the focus of the ARRA is to put people to work as quickly as possible, which explains why there are deadlines for using highway and transit formula funds. The State is required to obligate 50 percent of its highway funds, or $900 million within 120 days of apportionment (this is expected to occur as soon as March 2, 2009). Any funds that are still unobligated by the deadline will be returned to US DOT for redistribution to other states. This deadline does not apply to funds that are suballocated to regions under the STP formula. In addition, all funds allocated to the State, including the suballocated funds, must be obligated within one year of apportionment or they too, will be redistributed to other states. A similar provision applies to the urban transit and fixed guideway formula funds, except that the deadline for the first 50 percent of the funds is 180 days. The potential adverse consequences of these deadlines point to the need for the State to act quickly in obligating its funding and the potential for reward through additional funding if it does so. It is my intention to ensure that Caltrans obligates its share of the funding within 60 days of apportionment and to provide maximum assistance to other agencies so that all funds are obligated in a timely manner, which would make California eligible to receive additional funds through the redistribution processes outlined in the bill.

The ARRA requires states to meet these stringent deadlines without any relaxation of the existing federal regulatory requirements related to programming, environmental review and approval, permitting, bidding and contracting. This means that we are going meet the full requirements of the National Environmental Policy Act (NEPA), air quality conformity under the Clean Air Act, as well as the contracting protections for disadvantaged business enterprises, and prevailing wage requirements. There is no room for short-cuts in these areas and none will be taken.

Having said that, we are working to ensure that there is a minimum of delay in processing the federal approvals of our requests to obligate funds for those projects that we move forward under these deadlines. We are working closely with our Federal Highway Administration (FHWA) Region IX office to expedite the processing of the documents that obligate the funds, which is called an "E-76." This is the document that we submit to FHWA after we have programmed the project (including meeting the air quality conformity requirements), received our environmental approvals, and completed our permitting requirements to tell them that we are ready to put this project to bid and award funding. Usually, FHWA requires full documentation at the time of submittal of the E-76. Recognizing the volume of approvals and the critical nature of the deadlines, FHWA staff is looking at ways that would create concurrent reviews and allow us to submit checklists with the understanding that full documentation is available and will follow.

FHWA approval of the E-76 obligates the funds, which has the effect of reserving the funding for the project and allows us to post a bid notice. Usually, it takes about six weeks to two months to go from bid to award of a contract. Once a contract is awarded, we can start construction immediately.

One way that I believe would expedite the use of funds is by modifying State law to provide greater delegation to regions for selecting projects and programming funds.

Under current state law, the funds that are not suballocated to the regions, or approximately $1.8 billion, which would include the $77 million set aside for the Transportation Enhancement program would have to be programmed and allocated by the California Transportation Commission (CTC) through existing processes, which give priority first to the State Highway Operation and Protection Program (SHOPP) and then to State Transportation Improvement Program (STIP), which would then subdivide the remaining funds 75 percent to the Regional Improvement Program, and 25 percent to the Interregional Improvement Program. The suballocated funds or $771 million would be directly programmed into the Metropolitan Transportation Improvement Program and Federal Transportation Improvement Program by the Regions without CTC action. On February 19, 2009, the CTC took action to begin this process, by setting a threshold allocation of $500 million for the SHOPP. I estimate that through this process, the regional share of the STIP would be $975 million and the State share would be $324 million, assuming that the TE set aside were split between the two.

I believe that it would be in the overall best interest of the State if it could apportion the funds entirely using a modification of existing California Streets and Highways Code for allocating STP funds that come to us through the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, better known as SAFETEA – LU. Under this option, 62.5 percent of the total funding or approximately $1.6 billion would be apportioned by population formulas to regions, and 37.5 percent or $964 million would be apportioned to the State. Regions would directly program funds into the Metropolitan Transportation Improvement Programs and the State's apportionment would be programmed into the Federal Transportation Improvement Program by Caltrans with the consent and allocation of the CTC, but without any STIP action.

This proposal would also provide greater consideration of city and county needs, as well as more strongly achieve the goals of the Transportation Enhancement program set aside. In addition, it would include safeguards to ensure that no funds would be left unobligated by the deadlines specified in ARRA.

My priorities for Caltrans' share of funding include addressing the long-standing backlog in the SHOPP and to advance Proposition 1B projects that have been allocated but not yet awarded. It would be my intention to use the State's share as an inducement for Regions to leverage their share on Proposition 1B projects in exchange for another "pick" of an equal amount of funding from the same bond program once funds became available. Similarly, the State would have the option of picking an additional project.

We are working with a stakeholder group that includes CTC Staff, the regional agencies, self help counties, rural county task force, League of Cities, and California State Association of Counties to finalize details of a legislative proposal to implement this option. Timing is critical, as this will require an urgency clause to be of use. However, if agreement can not be reached by mid – March at the latest, the State would have to fall back on using the STIP process, which as I mentioned, the CTC has already initiated just in case.

The ARRA sets two criteria for priorities for projects, one is related to locating projects in areas meeting specified criteria for unemployment and economic distress under the Public Works and Economic Development Act of 1965 (at present, it appears that the majority of the State meets this criteria in one form or another) and the other is that the project can be completed in a three – year time frame. At the request of Business, Housing and Transportation Secretary Dale Bonner, Caltrans is developing a screening mechanism that will evaluate State selected projects for short and long term economic benefits, benefit/cost ratios, and mobility improvements. This is a valuable tool for ensuring that the State is using its funds to ensure not only that it is meeting the objectives of the ARRA, but is also maximizing the usefulness of its selections to help meet future objectives of California. We are encouraging regions to use similar approaches to their programs.

Ensuring that California gets the maximum benefit from the ARRA has been and continues to be, the primary focus of Caltrans, and will remain so until all funding opportunities under the bill expire. Caltrans is taking action to help expedite this program and facilitate use of the funds. We have established an internal task force that is looking at how best to support the regions, transit operators, and other stakeholders who will be receiving funds and to meet the extensive reporting requirements of the ARRA. I expect that a large share of the program responsibility will fall to our Local Assistance Division and we are examining how best we can allocate our internal resources to support the increase in their workload. As I mentioned earlier, we have been working with our stakeholders on a legislative proposal and also been regularly providing information updates as the nuances of this legislation unfolds. On the national level, I have been working with the American Association of State Highway and Transportation Officials to help to US DOT define some of the processes and procedures that they will use to implement the bill. Our success in implementing this bill will put us in a better position to achieve greater long – term objectives in the upcoming authorization of the next federal transportation act.

Once again, I would like to thank the committees for this opportunity. I would be happy to answer any questions.